IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : December 19 , 2007

1. CWP No.11350 of 2003

Surjit Singh & others vs State of Haryana and others

2. CWP No.11185 of 2004

Om Parkash & others vs State of Haryana and others

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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Present : Mr.Arvind Kashyap, Advocate
for the petitioners.

Mr.Ashish Kapoor, Addl.A.G.Haryana
for respondents No.1,2 and 4.

Mr.Amandeep Singh, Advocate
for respondent No.3.

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

This order shall dispose of CWP Nos.11350 of 2003 and 11185 of 2004, as they involve common questions of law and fact.

Challenge in these writ petitions is to the notifications, issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short herein after referred to as "the Act"), dated 27.3.2001 and 26.3.2002 respectively.

Before we proceed to decide the present controversy, it would

be necessary to mention that CWP No.11350 of 2003 was filed by 56 petitioners. During the pendency of these proceedings, land, belonging to the petitioners, except petitioners No.2, 5, 34, 43, 54 and 55, was released from acquisition, as the State found that their houses were located in five compact blocks of contiguous houses. The houses of the remaining petitioners could not be released, as it was alleged that these houses are scattered around the acquired land.

Counsel for the petitioners submits that the respondents are factually incorrect in asserting that the petitioners' houses are scattered around the acquired land. The petitioners' houses are contiguous and are situated in a compact block. As the State of Haryana has released houses, that constitute compact blocks of contiguous houses, in this very writ petition, a direction be issued to the respondents to release the petitioners' land.

Counsel for the State of Haryana, on the other hand, submits that the petitioners' houses are scattered around the acquired land and do not form a compact block. They cannot claim parity with the houses falling in five compact blocks, that have been released and, therefore, these writ petitions be dismissed, in terms of the decision of this Court, rendered in CWP No.14468 of 2002.

We have heard learned counsel for the parties and perused the paper book.

In order to verify the truthfulness of the above assertions, we directed the State to carry out an on the spot survey of the petitioners' houses. In compliance with our directions, Shri Amrik Singh, District Town Planner, Panchkula carried out a survey and filed a report, dated

24.11.2007, along with a site plan, in CWP No.11350 of 2003,, and an affidavit, dated 30.11.2007, along with another site plan in CWP No.11185 of 2004.

A conjoint appraisal of the aforementioned report/affidavit, as also the layout-cum-demarcation plans, appended thereto, discloses that houses, in these writ petitions, are contiguous and are located in a compact block, though separate from the five already released blocks. As per the report, the house of petitioner No.1 in CWP No.11185 of 2004 adjoins the house of petitioner No.2. The house of petitioner No.3 adjoins the house of petitioner No.34 in CWP No.11350 of 2003, whereas the houses of petitioners No.5, 34, 43, 54 and 55 adjoin one another. It is, however, recorded that the house of petitioner No.1 is at a distance of 73 feet from the house of petitioner No.34. A perusal of the layout-cum-demarcation plans, when placed together, conclusively establishes that these houses constitute a separate block of contiguous houses, as would place them at par with the released blocks. Reliance by counsel for the State of Haryana on the dismissal of CWP No.14468 of 2002, is misplaced. The petitioners therein failed to establish that their houses were situated either within the five compact blocks or constituted a compact block of contiguous houses. Consequently, we were constrained to dismiss the aforementioned petition.

In the present writ petitions, however, the petitioners have successfully established that their houses, apart from being sufficiently contiguous, are located in a compact block as would place them at par with the released houses. The petitioners are, therefore, right in urging parity with the houses that have already been released. The State decided, in

these writ petitions, to release all houses that fall in compact blocks and, thus, set down a criteria for release. Any deviation therefrom would render such action discriminatory. The government has failed to place before us any material that would distinguish the houses, involved in these writ petitions, from those that have already been released in five compact blocks. As the petitioners' houses fall in a compact block, the rejection of their claim for release of their houses, is violative of the provisions of Article 14 of the Constitution.

We, therefore, accept the writ petitions and direct the respondents to release the petitioners' houses from acquisition on the same terms, as were extended to land owners, whose houses are situated within five compact blocks, already released by the government.

No order as to costs.

(RAJIVE BHALLA)
JUDGE

(UMA NATH SINGH)
JUDGE

December , 2007
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